

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SAID GSSIME,

Plaintiff,

MEMORANDUM & ORDER
09-CV-5674 (JS)(ETB)

-against-

BETH WASSERMAN, ET AL.,

Defendants.

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APPEARANCES:

For Plaintiff: Said Gssime, pro se
Prisoner No. 98-A-5384
Marcy Correctional Facility
P.O. Box 3600
Marcy, NY 13403

For Defendants: No Appearances.

SEYBERT, District Judge:

Pending before the Court is: (1) Plaintiff Said Gssime's motion for reconsideration of the Court's August 3, 2010 Order revoking in forma pauperis status¹; and (2) Magistrate Judge E. Thomas Boyle's Report & Recommendation ("R&R"), issued January 14, 2011, which recommended that the Court dismiss this action without prejudice for failure to affect service.

¹ It is unclear if Mr. Gssime, in fact, seeks reconsideration of this Order. It may be that Mr. Gssime really wants the Court to stay this action until he is released from prison, or dismiss it without prejudice. See Docket No. 23. If that's the case, than this Order gives Mr. Gssime his wish, by dismissing without prejudice for failure to affect service.

DISCUSSION

Mr. Gssime's motion for reconsideration is DENIED. As the Court's August 3, 2010 Order notes, Mr. Gssime has already had five previous in forma pauperis actions dismissed for failure to state a claim. See Docket No. 22 at 5. Thus, he has already had his "three strikes," and then some. See id.; 28 U.S.C. § 1915(g). It follows then that, for this action's purposes, he is ineligible for in forma pauperis status.

Magistrate Judge Boyle's R&R is ADOPTED in its entirety. Mr. Gssime filed no objections to the R&R. Thus, the Court "need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotations omitted). Having reviewed the R&R, the Court finds it to be correct, comprehensive, well-reasoned, and free of any clear error. As Judge Boyle correctly reported, Mr. Gssime has failed to affect service on any defendant, even though this action has been pending for more than a year, and Mr. Gssime has failed to show good cause for not affecting service. Consequently, as Magistrate Judge Boyle properly recommended, this action must be DISMISSED WITHOUT PREJUDICE. See FED. R. CIV. P. 4(m).

CONCLUSION

Mr. Gssime's motion for reconsideration is DENIED. Magistrate Judge Boyle's R&R is ADOPTED in its entirety. This

case is DISMISSED WIHTOUT PREJUDICE. The Clerk of the Court is directed to mark this matter as CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: February 23, 2011
Central Islip, New York